

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ANGELA NAILS,

Plaintiff,

v.

PARKSIDE APARTMENTS,

Defendant.

Case No. 2:17-cv-12972

Honorable Laurie J. Michelson

Magistrate Judge Mona K. Majzoub

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**ORDER  
REGARDING MAGISTRATE JUDGE REPORT AND RECOMMENDATION [42]  
AND GRANTING DEFENDANT’S MOTION TO DISMISS [33]**

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Before the Court is Magistrate Judge Mona K. Majzoub’s Report and Recommendation. (ECF No. 42.) At the conclusion of her May 28, 2019 Report and Recommendation, Magistrate Judge Majzoub notified the parties that they were required to file any objections within 14 days of service, as provided in Federal Rule of Civil Procedure 72(b)(2) and Eastern District of Michigan Local Rule 72.1(d), and that “[f]ailure to file specific objections constitutes a waiver of any further right of appeal.” (ECF No. 42, PageID.131.) It is now June 20, 2019. As such, the time to file objections has expired. And no objections have been filed.

The Court finds that the parties’ failure to object is a procedural default, waiving review of the Magistrate Judge’s findings by this Court. In *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981), the Sixth Circuit established a rule of procedural default, holding that “a party shall file objections with the district court or else waive right to appeal.” And in *Thomas v. Arn*, 474 U.S. 140, 144 (1985), the Supreme Court explained that the Sixth Circuit’s waiver-of-appellate-review rule rested on the assumption “that the failure to object may constitute a procedural default waiving review even at the district court level.” 474 U.S. at 149; *see also*

*Garrison v. Equifax Info. Servs., LLC*, No. 10-13990, 2012 WL 1278044, at \*8 (E.D. Mich. Apr. 16, 2012) (“The Court is not obligated to review the portions of the report to which no objection was made.” (citing *Thomas*, 474 U.S. at 149–52)). The Court further held that this rule violates neither the Federal Magistrates Act nor the Federal Constitution.

The Court therefore finds that the parties have waived further review of the Magistrate Judge’s Report and accepts her recommended disposition. It follows that this Court GRANTS Defendant’s motion to dismiss (ECF No. 33) insofar as Defendant seeks dismissal of Plaintiff’s Amended Complaint with prejudice and DENIES Defendant’s motion to dismiss insofar as Defendant seeks attorney’s fees and costs. Plaintiff’s Motions to Dismiss this matter without prejudice (ECF Nos. 36, 41) are DENIED. This case is DISMISSED WITH PREJUDICE.

SO ORDERED.

s/Laurie J. Michelson  
LAURIE J. MICHELSON  
UNITED STATES DISTRICT JUDGE

Date: June 21, 2019

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon counsel of record and/or pro se parties on this date, June 21, 2019, using the Electronic Court Filing system and/or first-class U.S. mail.

s/William Barkholz  
Case Manager